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FAX COVER PAGE

DATE: September 21, 2007 PAGES INCLUDING THIS PAGE: 21

TO: Examiner Pedro Philogene, Group Art Unit 3733 FAX NUMBER: 571-273-8300
COMPANY: U.S. Patent and Trademark Office PHONE NUMBER:

FROM: Douglas A. Collier DIRECT DIAL: (317) 238-6333
FAX NUMBER: (317) 636-1507

RE: Response to Office Action for U.S. Patent Application No. 10/792,358 to Charles L. Branch et al.

COMMENTS: I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on:

September 21, 2007
(Date of Transmission)

Douglas A. Collier
Name of Registered Representative

Douglas A. Collier
Signature

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PTO/SB/21 (09-04)
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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/792,358
Filing Date	March 3, 2004
First Named Inventor	Charles L. Branch et al.
Art Unit	3733
Examiner Name	Pedro Philogene
Attorney Docket Number	MSDI-90/PC689.02

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ENCLOSURES (*Check all that apply*)

- [x] Fee Transmittal Form
  - [x] Fee Attached
- [x] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
  - [ ] Landscape Table on CD
- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please identify below):
  Fax Cover Sheet

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Krieg DeVault LLP		
Signature	Douglas A. Collier		
Printed name	Douglas A. Collier		
Date	September 21, 2007	Reg. No.	43,556

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature	Douglas A. Collier		
Typed or printed name	Douglas A. Collier	Date	September 21, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 200.00

Complete If Known	
Application Number	10/792,358
Filing Date	March 3, 2004
First Named Inventor	Charles L. Branch
Examiner Name	Pedro Philogene
Art Unit	3733
Attorney Docket No.	MSDI-90/PC689.02

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METHOD OF PAYMENT (check all that apply)

☐ Check ☑ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☑ Deposit Account Deposit Account Number: 12-2424 Deposit Account Name: Krieg DeVault Lundy

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☑ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☑ Credit any overpayments

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES Fee ($)	FILING FEES Small Entity Fee ($)	SEARCH FEES Fee ($)	SEARCH FEES Small Entity Fee ($)	EXAMINATION FEES Fee ($)	EXAMINATION FEES Small Entity Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	0.00
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
51 - 51 or HP =	0	x 50.00	= 0.00

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
5 - 4 or HP =	1	x 200.00	= 200.00

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims Fee ($)	Fee Paid ($)

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____ / 50 =	_____ (round up to a whole number)	x _____	= _____

4. OTHER FEE(S)

Non-English Specification, $130 fee (no small entity discount) Fees Paid ($) _____

Other (e.g., late filing surcharge): _____ _____

SUBMITTED BY

Signature	Douglas A. Collier	Registration No. (Attorney/Agent) 43,556	Telephone 317-636-4341
Name (Print/Type)	Douglas A. Collier		Date September 21, 2007

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application:	)	Before the Examiner Pedro Philogene
Charles L Branch, et al.	)	
Serial No. 10/792,358	)	Group Art Unit: 3733
Filed: March 3, 2004	)	Atty Docket No.: MSDI-90/PC689.02
INSTRUMENTS AND METHODS FOR MINIMALLY INVASIVE TISSUE RETRACTION AND SURGERY	)	September 21, 2007

RESPONSE TO NON-FINAL OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Non-Final Office Action mailed June 27, 2007, please consider the following. The fee for one additional independent claim is enclosed herewith. No additional fees or extensions or time are believed due for consideration of the enclosed. However, please provide any extensions of time which may be necessary and charge any additional fees due to Deposit Account 12-2424, but not including the payment of issue fees.

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at 571-273-8300 on:

Sept. 21, 2007
(Date of Transmission)

Douglas A. Collier
Name of Registered Representative

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Sept. 21, 2007
Date of signature

PAGE 5/21 * RCVD AT 9/21/2007 2:13:08 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-2/6 * DNIS:2738300 * CSID:317 636 0228 * DURATION (mm-ss):09-16